

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

NIKE, INC.

Plaintiff,

v.

PUMA NORTH AMERICA, INC.

Defendant.

C. A. No. 1:18-cv-10876-LTS

**NIKE, INC.'S UNOPPOSED MOTION TO EXTEND  
THE EXPERT CLAIM CONSTRUCTION TESTIMONY DEADLINE**

Pursuant to Federal Rule of Civil Procedure 16(b)(4), Plaintiff NIKE, Inc. (“NIKE”) moves to extend the deadline in the amended Scheduling Order (ECF No. 98) for expert claim construction testimony. NIKE requests that the Court extend the deadline by one day to accommodate the schedules of the witnesses and counsel. This one-day extension will not impact any other case deadlines. The parties conferred and PUMA does not oppose this Motion.

The Court’s Scheduling Order set June 28, 2019, as the deadline for the parties to file their opening claim construction briefs, July 22, 2019, as the deadline for expert claim construction testimony, and August 12, 2019, as the deadline for the parties to file their responsive claim construction briefs. (ECF No. 98.)

The parties filed their respective opening claim construction briefs on June 28, 2019. (ECF Nos. 99, 100.) PUMA also filed declarations from two expert witnesses with its opening brief. (*Id.*) NIKE intends to take the depositions of those witnesses.

NIKE and PUMA conferred regarding scheduling the depositions. For one of the witnesses, the parties were able to find a mutually-agreeable date prior to the current deadline and NIKE will take the deposition on that date. For the second witness, because of pre-existing

scheduling conflicts for the witness and NIKE's counsel, the first available date for the deposition is July 23, 2019, which is one day after the current deadline.

Good cause exists to extend the deadline because witness and attorney availability requires the parties to schedule a deposition one day after the current deadline. NIKE does not seek to amend any other deadlines in the Scheduling Order. Nor will the proposed amended deadline change or impact any other dates in the Scheduling Order, including the deadline for the parties to submit their responsive claim construction briefs.

NIKE thus respectfully requests that the Court grant this Motion and enter an Order extending the deadline for expert claim construction testimony by one day to July 23, 2019.

Dated: July 5, 2019

Respectfully submitted,

/s/ Christopher J. Renk

John P. Iwanicki (BBO# 556465)  
Banner & Witcoff, Ltd.  
28 State Street, Suite 1800  
Boston, Massachusetts 02109  
Telephone: (617) 720-9600  
Facsimile: (617) 720-9601  
JIwanicki@bannerwitcoff.com

Christopher J. Renk  
Michael J. Harris  
Aaron P. Bowling  
Kimberly S. Devine  
Kevin Dam  
Novaira T. Paul  
Banner & Witcoff, Ltd.  
71 South Wacker Drive, Suite 3600  
Chicago, Illinois 60606  
Telephone: (312) 463-5000  
Facsimile: (312) 463-5001  
CRenk@bannerwitcoff.com  
MHarris@bannerwitcoff.com

ABowling@bannerwitcoff.com  
KDevine@bannerwitcoff.com  
KDam@bannerwitcoff.com  
NPaul@bannerwitcoff.com

*Attorneys for Plaintiff Nike, Inc.*

### **CERTIFICATE OF CONFERENCE**

I hereby certify that in accordance with Local Rule 7.1(a)(2), counsel for NIKE, Inc. and counsel for Puma North America, Inc. have conferred in good faith regarding the resolution of this motion. Puma does not oppose NIKE's motion.

/s/ *Kevin Dam*  
Kevin Dam

### **CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ *Kevin Dam*  
Kevin Dam